3341

SUPREME COURT OF THE UNITED STATES.

No. 171.

THE UNITED STATES, APP'TS,

vs.

ANDRES CASTILLERO.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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OFFICE OF BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this thirteenth day of April, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Andres Castillero for the place named "Island of Santa Cruz" was presented, and ordered to be filed and docketed with No. 176, and is as follows, to wit:

[Vide page 3 of this transcript.]

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *March* 2, 1853.

In case No. 176, Andres Castillero for the island of Santa Cruz, the counsel for James R. Bolton presented a supplemental petition, which was ordered to be recorded, and filed among the papers in the case.

[Vide page 4 of this transcript.]

SAN FRANCISCO, *Sept.* 23, 1853.

Case No. 176 was ordered to the foot of the docket.

SAN FRANCISCO, *Sept.* 19, 1854.

Case No. 176 was ordered to be placed at the foot of the 2d class cases on the trial docket.

SAN FRANCISCO, *Sept.* 25, 1854.

In the same case, the counsel for the claimant filed the following stipulation, to wit:

[Vide page 26 of this transcript.]

SAN FRANCISCO, *Oct.* 23, 1854.

In the same case, the counsel for the claimant filed the following affidavit, to wit:

[Vide page 27 of this transcript.]

SAN FRANCISCO, *Oct.* 24, 1854.

Case No. 176, on motion of the counsel upon affidavit heretofore

filed, and with the consent of the United States law agent, was ordered to the foot of the 4th class cases on the trial docket.

SAN FRANCISCO, *March* 15, 1855.

Case No. 176 was submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *July* 3, 1855.

In the same case, Commissioner S. B. Farwell delivered the opinion of the board confirming the claim.

[Vide page 38 of this transcript.

And the following order was made, to wit:

[Vide page 40 of this transcript.]

Petition.

To the honorable commissioners to settle private land claims in California.

The petitioner, Andres Castillero, respectfully shows that on the 20th day of July, A. D. 1838, the President of Mexico directed the governor of the department of the Californias to grant to him one of the islands on the coast of California.

That in accordance with the said order, on the 22d day of May, A. D. 1839, Juan B. Alvarada, governor of California, by virtue of authority in him vested, granted to the petitioner the island of Santa Cruz, situate in the now county of Santa Barbara; all of which is shown by the original papers, copies of which are submitted herewith, marked "A," with translations marked "B."

That the said tract of land has not been surveyed by the surveyor general of the United States, and that from the nature of the case no survey is required, the boundaries being natural.

The petitioner further shows that he has been in possession of the said tract of land for some 12 years, and knows of no conflicting claim.

That he relies for confirmation of title upon the original papers and the records in the archives now under the charge of the surveyor general, and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the commissioner to confirm to him the aforesaid tract of land.

By his att'ys,

HALLECK, PEACHY & BILLINGS.

Filed in office April 13th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Supplemental Petition.

Before the honorable commissioners to settle private land claims in California.

In the claim of Andres Castillero, No. 176, on the docket of the secretary of the commission.

And now comes James R. Bolton, and files this his petition supplementary to the petition of said Andres Castillero, and respectfully represents that in the year 1850 one undivided half of the said island of Santa Cruz was sold at public auction for taxes by the sheriff of Santa Barbara county, and duly conveyed to Francisco de la Guerra, and by him, the said Francisco de la Guerra and wife, conveyed to this petitioner, as will be shown by the original mesne conveyances, which will be adduced in evidence and duly proved.

Whereupon the petitioner prays the commissioners, on the final hearing of the petition of said Castillero, and of this petition, and the evidence adduced, to confirm to him the undivided half of said island.

By his att'ys,

HALLECK, PEACHY & BILLINGS.

Filed in office March 2, 1853.

(Sig'd) GEO. FISHER, *Sec'y.*

This supplemental petition is admitted and consented to by the original petitioner.

HALLECK, PEACHY & BILLINGS,
Att'ys for Castillero.

Juan B. Alvarado, gobernador interino del departamento de las Californias.

En atencion á los meritos del Sor. Capitan Dn. Andres Castillero, y teniendo á la vista la orden espresa que dirige á este gobierno departamental el supremo de la nacion, para que puedan concederse á los nacionales las islas adjarentes á la costa de este suelo, y mas particula mente fundado en la comunicacion oficial que se le dirige por el ministerio de lo interior, para que, de toda preferencia, se adjudique en propiedad al espresado Sor. Castillero la isla que el mismo determine, he venido en concederle la que está al frente de la rada de Sta. Barbara, conocido con el nombre de Sta. Cruz, por los linderos que ella naturalmente tiene, por lo cual se omite señalar su demarcacion, como castanteniente conocida.

En consecuencia mando que sirviendole de titulo el presente al espresado Sor. Castillero y teniendose por firme y valedero se tome razon de el en el libro á que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á seis

de Marzo, de mil ochocientos treinta y nueve, el cual vá estendiendose este titulo en papel comun, por no haber del sello que corresponde.

4. S. D. K.

5. S. D. K.

MINISTERIO DE LO INTERIOR:

EXMO. SENOR: Siendo dignos de toda consideracion y recompensa los servicios que ha prestado á la nacion y á ese departamento, el Capitan Dn. Andres Castillero, cooperando eficasmente al restablecimiento del orden y á la obidiencia de las leyes constitucionales, me manda el exmo. Sor. Precidente recomendaslos muy eficacemente á v. s. y á esa junta departamental, á fin de que antes de que se proceda al reparto que debe hacerse conforme á las leyes y segun se previene en orden de esta f'ha. de los terrenos de las islas adyacentes á esa peninsula, se asigne á aquel individuo el que elifá en las immediatas al lugar que donde deve residir con la tropa que está á sus ordenes. Tengo el honor de comunicarlo á v. e. para su inteligencia y efectos correspondientes. Dios y libertad.

Mejico, Julio veinte, de mil ochocientos treinta y ocho.

PESADO.

Exmo. Sor. Gobernador del Departmento de Californias.

VILLA DE LOS ANGELES.

Es copia sacada á la letra de su original, la cual se le devolvio al Sor. Dn. Andres Castillero en el momento de sacarse la presente que autoriso y firmo á pedimento del espresado Sor. Castillero pr. antes los testigos de mi asa. en la ciudad de los Angeles, departamento de Californias á los diez y siese dias del mes de Mayo, de mil ochocientos treinta y nueve y en este papel comun, pr. no habor del sellado respectivo. Doy feé.

6. S. D. K.

TIBUREIO TAPIA.

Assa: NARCISO BOTELLO. Assa: CARLOS BAREI.

7. S. D. K.

MONTEREY, 5 *de Marzo, de* 1839.

De entera conformidad con lo que se pide en esta solicitud, estiendase el titulo de consecion de la isla de Sta. Catalina en favor del Sor. Capitan Dn. Andres Castillero y siga sus tramites el espediente.

ALVARADO.

Exmo. Sor. GOBER'DOR DEL DEPARTAMENTO:

El cno. Cosme D. Peña vecino de este puerto ante la justificacion de v. e. como apoderado del Sor. Capitan Dn. Andres Castillero por el ocurso que mas conforme sea á dro. paresco y digo: Que por la orden que original acompaño á v. e. se dispone que en

la consecion de las islas adjuntas á las costas de este departamento scá mi poderdante preferido en la que el mismo señale al efecto, y habien dome indicado por sur instruones que lo que mas le conviene solicitar es la de Sta. Catalina, esta en frente de la rada de Sn. Pedro, me presento en su solicitud esperando que v. e. fundado en la estada ministerial orden á que me refiero se sirva concedersela en propiedad, mandando que el espediente corre los
8. S. D. K. tramites de estilo, hasta la aprobacion de la exma. junta departamental de lo cual se me mande dar el testimonio correspondte. admitiendome en el presente papel comun, por no haber del sellado correspondiente.

V. E. se servirá obrar de entera conformidad en lo que quedara obsequrada la repetida orden superior y mi poderiante recebiné la gracia que solicito en su nombre. Mont'y, Mzo. 5, 1839.

L. COSME D. PENA.

9. S. D. K.

Exmo. Sor. GOBERNADOR:

El C. José Anto'o Aguire, comerciante del puerto de Sta. Barbara ante v. e. con el debido respecto y en los terminos que scan mas conformes en derecho me presento y digo: que la saliso del Sor. D. Andres Castilleras, diputado nombrase por este departamento al Soberano Congreso nacional, me nombre apoderado pa. que representando su persona y derechos me estension en la pretencion de una de las islas adyacenter á este referido departamento que por disposicion suprema debe ser atendido de preferencia, y como al confianase seibolo señor este encargo me dio las instruciones de mi poderante q. la isla Santa Catalina que antes le fué ofreciola, cascu absudatamente de todo lo necesario pasa el fomento sonto de los bienes de campo como del ramo de agricultura á que es indispensable desesar en ellas. Por lo espuerto
10. S. D. K. á v. e. pido rendidamente decede á esta mi solicitud esperando alcanzar de la susegridas de v. e. la justicia que mas lose suro no ser de malicia y lo necesario sr. dignando admitirlo en papel comun, por no haber del sellado respectivo.

San Pedro, Mayo diez y siete, de mil ochocientos treinta y nueve.

JOSE ANTO. AGUIRRE.

[SEAL.]

MONTEREY, 22 *de Mayo, de* 1839.

En atencion á los meritos del Señor Capitan Don Andres Castillero, y teniendo á la vista la orden espesa que dirije á este Gobierno Departamental el Supremo Gobierno de la Nacion, para que puedan concederse á los nacionales las islas adjacentes á la costa de este suclo, y mas particularmte. fundado en la comunicacion oficial que de el dirige por el Ministerio de lo Interior, de f'ha. 20

de Julio ultimo, para que de toda preferencia se adgudique en propiedad al espresado Sor. Castellero, la isla de la
11. S. D. K. determine: he venido en concederle la que está al frente de la rada de Sta. Barbara conocida con el nombre de St. Cruz por los linderos que ella naturalmente tuve por lo cual se omite señalar su demarcacion como bastantamte. conocida.

En consecuencia mando que serviendole de titulo el presento decreto y el despacho que se le estienda al espresado Sor. Castillero, se tome razon en el libro á que corresponde. El Sor. Don Juan B. Alvarado, gobernador del departamento de las Californias asé lo mandó, decreto y firmó de que doy feé.

ALVARADO.

MANUEL ZIMENO, Srio. del Despacho.

12. S. D. K.

JUAN B. ALVARADO, Gobernador Interino del Departe. de Californias:

En atencion á los meritos del Sor. Don Andres Castillero, y teniendo á la vista la orden espresa que dirige á este Gobierno el Supremo de la Nacion para que puedan concederse á los nacionales las islas adyacentes á la costa de este suelo, y mas particularmente fundado en la comunicacion oficial que se le dirige por el Ministerio de lo Interior para que de toda preferencia se adjudique en propiedad al espresado Sor. Castillero la isla que el mismo determine, he venido en concederle la que esta al frente de esta rada de Sr. Pedro conocida con el nombre de Sta. Catalina por los linderos que ella naturalmte. tiene por lo cual se omite diseñar su demarcacion como bastantemte. conocido.

13. S. D. K. F'ha.

De entera conformidad con lo que se pide en esta solicitud estiendere el titulo de consecion de la isla de Sta. Catalina en favor del Sor. Capitan Dn. A. E. y cuyos tramites el espediente hasta su final conclucion segun estilo, librandose conclucion segun estilo librandose al solicitante el documento que corresponde.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and control a portion of the *archieves* of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the thirteen preceding and hereunto annexed pages of tracing paper, numbered from one to thirteen, and each of which is marked by my initials, (S. D. K.,) exhibit

true and accurate copies of certain documents now on file, and forming part of the said *archieves* in this office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the city of San Francisco, this eleventh day of January, 1852.

SAMUEL D. KING,
Survyr. Genl., Cala.

Filed in office Oct. 21, 1853.

GEO. FISHER, *Sec'y.*

Espediente moved by the Sor. Don Andres Castillero, asking for the island called Santa Cruz.

Year 1839.

187.

Espediente of lands belonging to the Señor Castillero.

1839.

Translation of Espedientes.

Juan B. Alvarado, governor *and* interim of the department of the Californias:

In attention to the merits of the Señor Captain Don Andres Castillero, and having in view the express order directed to this government by the Supreme [Government] of the Nation, that there may be granted to nationals the islands adjacent to the coast of this soil, and, more particularly, based on the official communication which is directed by the Minister of the Interior, that in all preference there be adjudicated to the said Señor Castillero the island which he himself may select, I have granted to him that which is in front of the roadstead of Santa Barbara, known by the name of Santa Cruz by the boundaries which it naturally has, wherefore it is *mitted* to point out its demarcation, as it is sufficiently known.

Consequently, I order that this present serving *cos* as title to the said Señor Castillero, and being held as firm and valid, note be taken of it in the corresponding book, and it be delivered to the party interested for his security and other ends.

Given at Monterey the 22d of May, 1839; which title is made out on common paper, there being none of the corresponding stamp.

MINISTRY OF THE INTERIOR.

MOST EXCELLENT SENOR:

Being worthy of full consideration and recompense the services which the Captain Don Andres Castillero has rendered the nation and this department, co-operating efficaciously in the re-establishment of order and obedience to the constitutional laws, the most

excellent Señor President orders me to recommend them very efficaciously to your excellency and to the departamental junta, in order that, before proceeding to divide out, as ought to be done, conformably to the laws, and as is directed in the order of this date, the lands of the islands adjacent to that peninsula, there be assigned to said individual that which he may select, nearest to the place where he ought to reside with the troops which are under his orders.

I have the honor to communicate this to your excellency for your information and the corresponding action.

God and liberty! Mexico, July 20, 1838.

PESADA.

The most excellent Senor Governor of the Department of California, villa of Los Angeles.

This is a copy taken literally from the original, which is returned to Señor Don Andres Castillero immediately on taking the patent, which I authorize and sign at the request of the said Castillero before the witnesses of my assistance, in the city of Los Angeles, department of Californias, the 19th day of the month of May, 1839, on this common paper, there being none of the respective seal, I certify.

TIBURCIO TAPIA.

Assisting witness— NARCISE BOTELLO.

Assisting witness— CARLOS BAREI.

MONTEREY, *March 5th*, 1839.

In entire conformity with what is asked in this petition, make out the title of concession of the island of Santa Catalina in favor of the Señor Don Andres Castillero, and let the espediente pass through the proper forms.

ALVARADO.

MOST EXCELLENT GOVERNOR OF THE DEPARTMENT:

The licentiate, Cosmo D. Pena, resident of this port, before the justification of your excellency, as the attorney in fact of Señor Captain Don Andres Castillero, in manner most conformable to law, appears and says: That by the order, the original of which is sent herewith to your excellency, it is directed that in the granting of the islands adjacent to the coasts of this department my principal shall be preferred in that one which he may select for that object; and it being indicated to me by his instructions that the one which it suits him best to ask for is that of Santa Catalina, which is in front of the roadstead of San Pedro, I present myself in petition for it, hoping that your excellency, founded on the said ministerial order to which I refer, may be so good as to grant it in fee, ordering that the espediente may pass through the usual forms

to the approbation of the most excellent Departmental Junta, for which purpose there may be ordered to be given to me the corresponding testimony; admitting the present on common paper, there being none of the corresponding seal.

Your excellency will be so good as to act in entire conformity with what the said superior order directs, and my principal will receive the favor which I solicit in his name.

L. COSME DE PENA.

MONTEREY, *March* 5, 1839.

MOST EXCELLENT SENOR GOVERNOR:

Citizen José Antonio Aguirre, a merchant of the port of Santa Barbara, before your excellency, with due respect and in manner most conformable to law, presents himself and says: That on the departure of the Señor Don Andres Castillero, named deputy by this department, to the Supreme National Congress, be appointed the attorney in fact, in order that, representing his person and rights, I might make pretention to one of the islands adjacent to *to* this said department, in which, by supreme disposition, he ought to be attended to in preference; and as on conferring on me this charge, said Señor give me the corresponding instructions for that purpose, I beg your excellency to be so good as to grant him in fee that one which is found in front of the port of Santa Barbara, known by the name of Santa Cruz, as I am well informed, and according to the instructions of my principal, the island of Santa Catalina, which was formerly offered, wants absolutely all the necessaries for proper improvement of stock or agriculture to which it is indispensable to use it. Wherefore I beg that this petition may be acceded to, hoping to obtain from the benignity of your excellency the justice which I implore. I swear it is not from malice, and what is necessary; deigning to admit this on common paper, for want of the respective seal.

JOSE ANTONIO AGUIRRE.

SAN PEDRO, *March* 17, 1839.

[SEAL.] MONTEREY, *May* 22, 1839.

In attention to the merits of the Señor Captain Don Andres Castillero, and having in view the express order which the Supreme National Government directed to this departmental government, that there might be granted to nationals the islands adjacent to the coasts of this soil, and more particularly based on the official communication which is directed by the Ministry of the Interior, dated the 20th of July last, that in all preference there be adjudicated in fee to the said Señor Castillero the island which he himself may select, I have granted to him that which is in front of the roadstead of Santa Barbara, known by the name of Santa Cruz, by the boundaries which it naturally has, for which cause it is omitted to point out its demarcation, as it is sufficiently known.

In consequence, I order that, serving as a title, the present decree and the dispatch which is issued to the interested party, Señor Castillero, note be taken of it in the book which correspond. The Señor Don Juan B. Alvarado, Governor of the Department of Californias, ordered, decreed, and signed: of which I testify.

ALVARADO.

MANUEL ZIMENO, *Secretary of State.*

Juan B. Alvarado, Governor ad interim of the department of Californias:

In attention to the merits of the Señor Captain Don Andres Castillero, and having in view the express order which the Supreme Government of the nation directed to this departmental government, that the islands adjacent to the coasts [of] this soil might be granted to nationals, and more particularly based on the official communication which was directed by the Ministry of the Interior, that in all preference there might be adjudicated in fee to said Señor Castillero the island which he himself might select, I have granted him that which is in front of the roadstead of San Pedro, known by the name of Santa Catalina, by the boundaries which it naturally has. Wherefore it is omitted to point out its demarcation, as it is sufficiently known.

In entire conformity with what is asked in this petition, make out the title of grant of the island of Santa Catalina in favor of the Señor Captain Don A. C., and let the espediente pass the forms to its final conclusion as usual. Issue to the petitioner the document which corresponds.

Filed in office.

MINISTERIO DE LO INTERIOR:

EXMO. SOR.: Siendo dignos de toda concideracione y recompensa los servicios que ha prestado á la nacion y a ese departamento el Sor. Don Andres Castillero, co-operando eficacemente al retablecimiento del orden y á la obediencia de las leyes constitucionales me manda el exmo. Sr. Presidente recomendar los muy eficasmente, á VE. y á esa Junta Departamental á fin que antes de que se proseda al reparto que deve hacerse conforme á las leyes y segun se le previene en orden de esa f'ha, de los terrenos de las islas adjacentes á esa Peninsula, se asigne á aguel individuo el que elifa en las mas immediatas al lugar donde debe recidis, con la tropa que este á sus ordenes.

A. P. L., annexed to deposition of Juan B. Alvarado, taken Sept. 25, 1854.

Tengo el honor de comunicas lo á V. E. para su inteligencia y efectos correspondientes.

Dios y libertad, Mejico, Julio 20, de 1838. PESADO.

Villa de los Angeles.

Exmo. S. Gobernador del departamento de Calif'as.

Juan B. Alvarado, Gobernador Interino del departamento de las [SEAL.] Californias:

En atencion á los meritos del Señor Capitan Dn. Andres Castillero, y teniendo á la vista la orden espresa que dirije á ese Gobierno departmental el Supremo Gobierno, nacional para que puedan, concederse á los nacionales las islas adgacentes á las costas de este suelo, y mas particularmente fundado en la comunicacion oficial que se le dirije por el Ministerio de lo Interior, de fecha 20 de Julio ultimo, para que de toda preferencia se adjudique en propriedad al espresado Sor. Castillero la isla que el mismo determine. He venido en concederle la que esta al frente de la rada de Sta. Barbara, conocido con el nombre de Sta. Cruz, pr. los linderos que ella naturalmente, tiene por lo cual se omite señalar su demarcacion como actualmente conocidos.

B. P. L., annexed to deposition of Juan B. Alvarado, Sept. 25th, 1854.

En concecuencia mando que sirviendole de titulo el presente al espresado Sor. Castillero y teniendose por firme y valedero se tome razon en el libro á que corresponde y se entreque al interesado para su resguardo y demas fines.

Dado en Monterey á veinte y dos de Mayo, de mil ochocientos trienta y nueve. Estiendase titulo en papel comun, por no haber del que corresponde.

JUAN B. ALVARADO.

MANUEL ZIMENO,
Srio. del Despacho.

Queda tomada razon de este despacho, en el libro de asientos de titulos sobre adjudicacionde terrenos á Ja. nueve.

ZIMENO.

B.—Translation of Title-papers.

OFFICE OF THE MINISTER OF THE INTERIOR.

MOST EXCELLENT SIR: The services rendered to the nation and to that department by Captain Don Andres Castillero, by efficaciously co-operating us, the re-establishment of order and obedience to the constitutional laws, being worthy of all consideration and recompense, his excellency, the President, has ordered me to recommend them very efficaciously to your excellency and to the departmental junta, in order that, before proceeding to grant away, in conformity with the laws and as directed in the order of this date, the lands of the islands adjacent to that peninsula, there be assigned to that individual the one which he may select nearest to the place where he may be stationed with the troops under his orders.

I have the honor to communicate it to your excellency for your

information and corresponding action. God and liberty. Mexico, Julio 20, 1838.

(Signed) PESADO.

To his excellency the Governor of the Department of Californias. Villa de los Angeles.

MONTEREY, 22*d May*, 1839.

In consideration of the merits of Captain Don Andres Castillero, and in view of the expressed orders which the Supreme National Government directed to this departmental government, that there be granted to nationals (citizens) the islands adjacent to the coast of this soil, and more particularly based on the official communication from the office of the Minister of the Interior of 20th of July last, directing that in all preference there be granted in fee to the said Señor Castillero the island which he himself may select, I have granted to him that which is in front of the anchorage of Santa Barbara, known by the name of Santa Cruz, with the boundaries which it has naturally; wherefore it is omitted to designate its demarcation, as being sufficiently well known.

In consequence I order that, serving as a title, this present decree and the dispatch written out to the said Señor Castillero, note be taken of it in the corresponding book.

Señor D'ns Juan B. Alvarado, Governor of the Department of the Californias, thus ordered, decreed, and signed, of which I certify.

(Signed) ALVARADO.

(Signed)

MANUEL ZIMENO, *Secretary of Despatch.*

Filed in office, April 13th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Whereas the owner of certain lands lying in the county of Santa Barbara and State of California, being the whole of the southeastern half of the island of Santa Cruz, has neglected to pay the tax by law imposed on said land; and whereas said lands were, on the 20th day of November, A. D. 1850, exposed to public sale in the manner prescribed by law in such case provided; and whereas at such sale Francisco De La Guerra offered the highest price for said land, namely, the sum of twenty-six dollars:

Now this indenture, made this 20th day of November, in the year one thousand eight hundred and fifty, between Antonio Maria de la Guerra, treasurer of the said county of Santa Barbara, and the said Francisco de la Guerra, witnesseth: that the said party of the first part, in consideration of the said sum of twenty-six dollars, to him paid by the said party of the second part, the receipt whereof is hereby acknowledged, doth by these presents grant, sell, and convey unto the said party of the second part, and to his heirs and

assigns, forever, all of the aforesaid southeastern half of the island of Santa Cruz, in the county of Santa Barbara, and State of California, together with all the tenements, hereditaments, and appurtenances thereunto belonging, and all the rents, issues, and profits thereof: to have and to hold the above-described premises, with the appurtenances, unto the said party of the second part, his heirs and assigns, to his and their own proper use and benefit forever.

In witness whereof, the aforesaid parties have hereunto set their hands and seals the day and year first above written.

ANTO. MA. DE LA GUERRA, [s.]
Tesorero.

FRANC'O DE LA GUERRA, [ ]

Signed, sealed, and delivered in presence of—
NICHOLAS A. DEN,
GUILL'O CARILLO.

STATE OF CALIFORNIA,
County of Santa Barbara.

On this twenty-third day of November, A. D. one thousand eight hundred and fifty, personally appeared before me, A. F. Kinchman, county clerk of Santa Barbara county, Antonio Maria de la Guerra, known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned,

A. F. KINCAMAN, [ ]
County Clerk.

Filed in office December 24, 1854.
(Signed) GEO. FISHER, *Sec'y.*

This indenture, made this day of June, A. D. eighteen hundred and fifty-one, between Francisco de la Guerra, of Santa Barbara, in the State of California, and Concepcion, his wife, parties of the first part, and James R. Bolton, of the city of San Francisco, State aforesaid, party of the second part, witnesseth: that whereas Antonio Maria de la Guerra, treasurer of the county of Santa Barbara aforesaid, did sell at public auction for taxes, and by *rnd* of conveyance dated the twentieth day of November, A. D. 1850, release, grant, and convey unto the said Francisco de la Guerra the southeastern half of the island of Santa Cruz, in the county of Santa Barbara aforesaid, together with all the tenements, hereditaments, appurtenances, rents, issues, and profits thereto belonging, which said deed of conveyance is recorded in vol. 1 of deeds, pages 16 and 17, of the recorder's office of said county of Santa Barbara, and is hereby referred to and made a part of this indenture.

Now, therefore, the said parties of the first part, for and in

consideration of the sum of one hundred and thirty dollars, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have remised, released, and quit-claimed, and by these presents do remise, release, and quit-claim, unto the said party of the second part, his heirs, and assigns, forever, all the above-described piece or parcel of land, viz, the southeastern half of the island of Santa Cruz, lying and being in the said county of Santa Barbara, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues, and profits thereof, and also all right, title, interest, estate, property, claim, and demand whatsoever, as well in law as in equity, of the said parties of the first part of, in, and to the above-described premises, and every part and parcel thereof, with the appurtenances: to have and to hold all and singular the above-mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns, forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and date first above written.

FRANCISCO DE LA GUERRA, [ ]
CONCEPCION GUERRA, [ ]

Signed, sealed, and delivered in presence of—
J. M. COVARRUBIAS.
GUILLO CARILLO.

STATE OF CALIFORNIA,
County of Santa Barbara, ss:

On this thirtieth day of December, in the year one thousand eight hundred and fifty-one, before me, personally came Francisco de la Guerra and Dona Concepcion, his wife, personally known to me to be the persons described in and who executed the within instrument, and they acknowledge to me that they executed the same for the purposes therein mentioned. And the said Dona Concepcion, on a private examination by me apart from her husband, acknowledged that she executed the same freely, and without any fear or compulsion of her said husband.

In witness whereof, I, Raimundo Carrillo, a notary public, duly commissioned and sworn, in and for the county of Santa Barbara, have hereunto set my hand and my private seal, on account of not having yet obtained any seal of my said office, on the day and year first above written.

RAYM'D CARRILLO,
Notary Public.

Filed in office Dec. 24th, 1853.
(Signed) GEO. FISHER, *Sec'y.*

334 75

Stipulation.

Claim of Andres Castillero to the island of Santa Cruz.

It is hereby stipulated, between the law agent of the United States and the attorneys for the claimant, that the deposition of Juan B. Alvarado in claim No. 805, this day taken, together with the documents, marked respectively "A. P. L." and "B. P. L.," annexed to the said deposition, shall be held and considered as in evidence in this case, excepting so much of the said deposition of said Alvarado as relates to an alleged agreement between the claimant in this case and one José Antonio Aguirre, that the former would give to the latter a certain part of the island of Santa Cruz, which part of the said deposition the attorneys of the claimant will not offer in evidence, but which the law [agent] of the United States may offer as evidence on behalf of the United States if he think fit.

LOUIS BLANDING, *Asso. Law Agent.*
HALLECK, PEACHY, & BILLINGS,
Att'ys for Claimant.

Sept. 25th, 1854.

Filed in office Sept. 25, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Affidavit of W. E. Barron.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Oct.* 23, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State—

William E. Barron: being duly sworn, deposes and says that he is the duly authorized agent and attorney in fact of Andres Castillero, the claimant in this case; that the said Castillero now resides near the city of Mexico, in the republic of Mexico; that on account of the civil war in that part of Mexico cutting off all communication between the capital and Acapulco for the 9 months last past, he has been unable to communicate with his said principal, the claimant in this case; that he has recently ascertained that an important witness in this case, one Jose Antonio Carrillo, is now a resident of the southern district of California, in either the county of Los Angeles or Santa Barbara; that he is advised by counsel and believes that the testimony of said Carrillo is important and necessary in this case; that he hopes and expects to procure the testimony of said Carrillo in the course of the next four weeks; he therefore pays that this claim may be placed at the foot of the 4th class on the calendar of the commission; that since ascertain-

ing the importance of the testimony of said witness, he has used due diligence to obtain it, and that this prayer is not made for unnecessary delay, but to secure the ends of justice.

WM. E. BARRON.

Subscribed and sworn to before me on this 23d day of October, A. D. 1854.

PETER LOTT, *Com'r, &c.*

Filed in office Oct. 23, 1854.
(Signed) GEO. FISHER, *See'y.*

Deposition of Juan B. Alvarado taken in case No. 805, *and made part of this case by stipulation.*

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Sept.* 25, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Juan B. Alvarado, a witness on behalf of the claimant, Jose Antonio Aguirre, in case No. 805 on the docket of said board, and said witness being sworn, deposed as follows in Spanish, which was interpreted into English by the interpreter to said board.

The U. S. associate law agent is present.

Questions by Judge Surthorland for claimant:

1st question. What is your name, age, and residence?

Answer. My name is Juan B. Alvarado, my age 45 years, my residence Contra, Costa county, California.

2d question. Look at the document now shown to *your* marked "A P L," and annexed to this deposition, and state if you have before seen said document; if yea, state where, when, and the circumstances, and state also whether you know the signature of Pesado thereto signed is his genuine signature, and your means of knowledge thereof.

Answer. I recognise this as a document which I received at Santa Barbara, I think, in 1838; I received it at the hand of Captain Andres Castillero; he brought it to me, as Governor of the Californias, from the Minister of the Interior of Mexico.

This signature of Pesado is genuine. I have frequently seen his handwriting in official correspondence between him and myself when I was Governor and he Minister of the Interior.

3d question. Look at the printed stamp at the head of said document, and state whether it is in conformity with the usual style of official communications from the Ministry of the Interior of Mexico.

Answer. Yes; this is a form which was used by said office. I

have seen other documents, and received them officially, bearing the same stamp.

4th question. State *now* such documents were usually *trasmitted* from the Supreme Government to the Governors of California.

Answer. They were generally sent by some special messenger, or a carrier, or by parties interested, as the case might be; documents like this might come enveloped or open, depending upon the care of the carrier.

5th question. Look at the document now shown you, marked "B P L," annexed to this deposition, and state whether you recognise the same as genuine; whether your name thereto subscribed is your genuine signature written at the date of said instrument, and whether you know the signatures of said Manuel Jimeno; if yea, your means of knowledge, and whether his signatures to said document are genuine.

Answer. I recognise this as a genuine document. It is a grant which I signed; this is my genuine signature, and the signatures of said Jimeno hereto are genuine.

He was my secretary, and I have often seen him write.

6th question. State to whom you sent or delivered these two documents which have been exhibited to you in this deposition.

Answer. I remember to have sent them to Don Jose Antonio Aguierra. I considered him interested in the said island, and also the representative of Don Andres Castillero in the matter.

7th question. State whether Andres Castillero ever told you that Jose Antonio Aguirre was interested in said island; if yea, what that interest was.

Answer. Yes. Said Castillero told me that said Aguirre was interested in the island; that he (Castillero) had promised him (Aguirre) that he should have one-half of the island for taking care of it, and he accordingly requested him to attend to getting the papers pertaining to the title.

It was publicly known at the time that said Aguirre had a half interest in said island.

8th question. State if you know when Andres Castillero left this country.

Answer. The last time he left this country when he went to Mexico was, I think, in 1846 or 1847.

9th question. When was it that Castillero told you of Aguirre having a half interest in said island?

Answer. It was, I think, in 1838, before he returned to Mexico.

10th question. Was the document before *reformed* to, marked "B P L," assigned to be a document of final title in the grantee? or was it contemplated that further steps should be taken for the purpose of making it complete?

Answer. It was intended to be a perfect and complete title in

Castillero, and there was nothing more contemplated to be done in the matter, nothing more was needed.

11th question. Why did you not insert in that grant the usual conditions requiring the building a house, and the occupancy and cultivation of the land?

Answer. Because the Supreme Government did not require it in the order from Pesado, the Minister of the Interior, marked "A B L," and filed herewith, and because I myself saw no necessity for it.

12th question. Why was this grant not made subject to the approval of the Departmental Assembly?

Answer. Because the territorial junta had authorized me to act as I might deem proper in such cases.

13th question. State whether a grant made like this by the order of the Supreme Government required the approval of the Departmental Assembly to give it definitive validity.

Answer. It did not.

Cross-examined by U. S. law agent.

1st question. Was it customary for the Minister of the Interior to give instructions concerning grants? and was it in his power, so far as you know, to dispense with the usual petition for grants?

Answer. The Minister of the Interior might have had the power. I do not know what powers were delegated to him by the supreme government.

2d question. Look again at document marked ("A P L,") hereinbefore referred to, and state whether there is anything therein contained dispensing with the approval of the departmental assembly and the usual conditions of grants, and, if yea, state the words.

Answer. There is nothing in this order requiring the approval of the departmental assembly, or requiring any conditions to be required of the grantee.

3d question. Did not the said last-mentioned document require grants of islands and lands mentioned in said document to be made in conformity with the laws then in existence?

Answer. I do not know what the law was at that time respecting the granting of islands, except the order which I received about the same time that I received this document from the general government.

4th question. State the purport of the last order to which you refer in your last answer.

Answer. It was an order for granting adjacent islands to the citizens of Mexico.

5th question. Did said order prescribe any terms on which said islands should be granted?

Answer. I do not remember any such terms; there may have been such; I only know that it contained an order for granting the islands adjacent to the coast.

6th question. Is there any material departure in that order from the usual orders to grant land coming from the Supreme Government; if yea, state the difference.

6th question objected to by claimant's counsel, because the orders are written documents, and the best testimony to their contents.

Answer. I understood that there is a difference between said order and the usual orders coming from the Supreme Government to grant lands. What those differences are I am not now prepared to show. I cannot recollect, unless I had other orders here with which to compare and point out wherein they differ.

The order of which we are speaking was an order to grant islands, and the others were not.

7th question. When the Supreme Government intended to dispense with conditions in the granting of lands, was it not always done in express terms?

Answer. The circumstances, usages, and customs of the country were such that express terms were not necessary in order to dispense with such conditions, so far as the power of the Supreme Government was concerned.

8th question. Could the Departmental Assembly empower the Governor to act as he pleased in granting lands?

It could.

9th question. Where and how was such power given to you by the Departmental Assembly?

Answer. In 1837, 1838, and 1839, and perhaps in 1840. I was empowered to act according to my discretion in granting lands at such times as I might deem necessary when the said Departmental Assembly was not in session.

In was by general consent of the members in 1839 and 1840.

There was an act passed in 1837 and 1838 giving such power.

JUAN B. ALVARADO.

Subscribed and sworn to before me, Sept. 25, 1854.

PETER LOTT, *Comm., &c.*

Filed in office Sept. 26, 1854.

(Signed) GEO. FISHER, *Sec'y*

Opinion.

176. ANDRES CASTILLERO vs. THE UNITED STATES. } For the island of "Santa Cruz, in the county of Santa Barbara.

The petitioner has offered in evidence a grant which is on file in case No. 805 in the secretary's office of this commission, and which is made evidence in this case, together with the deposition of Juan B. Alvarado, to which the said grant is attached by written stipulation of the parties to the record.

The grant was issued by Governor Juan B. Alvarado, and bears date the 22d day of May, 1839, and purports to have been issued in pursuance of special orders of the President of Mexico, in consideration of valuable services rendered on the part of the said grantee to the government, which said instructions are also on file in case No. 805, and made evidence in this case by said agreement. Subsequent to the filing of the petition of the part of Castillero, a supplemental petition has been filed, by leave of the board, in behalf of James R. Bolton, for one-half of the island, basing his claim upon a tax title, and in support of the claim on the part of Bolton he has offered in evidence a deed, executed by the treasurer of the county of Santa Barbara, to one Francisco de la Guerra, and a deed from Guerra to the claimant Bolton; but the claimant Bolton has failed to furnish the board with any proof that the tax sale was conducted under the provisions of the statute of California regulating the mode of selling lands for the payment of delinquent taxes, or that the sheriff who sold the land for taxes was the sheriff at the time the sale was made, or that the treasurer who executed the deed was the real treasurer at the time of executing the same.

We do not think the proofs on the part of Bolton sufficient to entitle him to a confirmation to any part of the premises. But the evidence on the part of the original petitioner is sufficient, in our opinion, to entitle him to a confirmation, and a decree will be entered accordingly.

Confirmed.

Filed in office July 3, 1855.
(Signed) GEO. FISHER, *Sec'y.*

176. *Decree.*

ANDRES CASTILLERO
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioner Castillero is valid, and it is therefore decreed that his application for a confirmation thereof be allowed.

The land of which confirmation is hereby given is the island of "Santa Cruz," in the county of Santa Barbara, having for its boundaries the water's edge.

R. AUG. THOMPSON,
S. B. FARWELL,
Comm'rs.

Filed in office July 3, 1855.
(Signed) GEO. FISHER, *Sec'y.*

176. *Order.*

And it appearing to the satisfaction of the board that the land hereby adjudicated is situated in the southern district of California, it is ordered that the transcripts of the proceedings and decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the southern district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing forty pages, numbered from 1 to 40, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 176 on the docket of the said board, wherein Andres Castillero is claimant against the United States for the place known by the name island of Santa Cruz.

In testimony whereof I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty-first day of November, A. D. 1855, and of the independence of the United States of America the eightieth.

GEO. FISHER, *Sec'y.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, 31 *Dec.*, 1855.

176. "Island of Santa Cruz."

ANDRES CASTILLERO, Claimant:

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 18th day of December, 1855, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed in office, February 12th, 1856.

C. E. CARR, *Clk.*

In the district court of the United States for the southern district of California, city and county of Los Angeles, State of California.

ANDRES CASTILLERO, appellee, ads. THE UNITED STATES, appellants.

Docket No. 340.—Transcript No. 175.

To the Hon. Isaac S. K. Ogier, judge:

The petition of Pacificus Ord, a resident of said city, county, and State, attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 13th day of April, A. D. 1852, Andres Castillero presented a petition to the commissioners to ascertain and settle the private land claims in the State of California when sitting as a board, claiming a tract of land called the island of Santa Cruz, in the county Santa Barbara, State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to.

That thereafter, to wit, on or about the 3d day of July, A. D. 1855, the said commissioners confirmed by final decision the said claim of said petitioner.

That thereafter, to wit, on or about the 6th day of December, A. D. 1855, a duly certified transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 176: reference to which it is prayed may be had and made part of this petition. That on or about the 18th day of December, A. D. 1855, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said commissioners in said cause, and the papers and evidence on which said decision was founded. That thereafter, to wit, on or about the 12th day of February, A. D. 1856, the said Attorney General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the clerk of said district court of the United States, that the appeal in said cause from the said decision of the said commissioners in the district court of the United States for the southern district of California would be prosecuted by the United States.

Your petitioner further represents, that the land claimed as aforesaid is situate in the southern district of California, and within the jurisdiction of this honorable court.

Your petitioner further represents and insists that the said claim is invalid, and the said decision of said commissioners is erroneous and ought to be reviewed, reversed, and set aside for many errors and imperfections of law and evidence apparent in said certified transcript of the proceedings and decisions of said commissioners in said cause filed and appealed from as aforesaid.

And your petitioner denies all and singular each and every allegation in the said petition of said claimants as aforesaid to said commissioners.

And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

And no sufficient proof having been made of the allegations in said petition to said commissioners, or in support of the said claim, no decision confirming the same should have been made by said commissioners; but the said claim should have been rejected by them. And the said claimant having no valid right or title derived from the Spanish or Mexican governments to the land claimed as aforesaid, the lawful right and *and* title in and to the said land was acquired by and it now belongs to the United States, by virtue of conquest and the treaty of peace, friendship, limits, and settlement between the United States and the republic of Mexico, made at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore the said Pacificus Ord, attorney of the United States for the southern district of California for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant or his attorney may be served with a copy of this petition; and that this honorable court will review the said decision of said commissioners, and reverse the same, and decide on the validity of the said claim, and decree the alleged title to be invalid, with costs and general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed in office January 5th, 1857.

C. SIMS, *Clk.*
p. J. H. COLEMAN, *D'y.*

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to Andres Castillero, greeting:

Take notice that a petition, a copy of which is herewith served

upon you, has been filed against you in the district court of the United States in and for the southern district of California, on the 5th day of January, in the year of our Lord one thousand eight hundred and fifty-seven, in the city and county of Los Angeles, in said district, by P. Ord, U. S. att'y, praying said court to review the decision of the U. S. land commissioners of the 3d July, 1855, confirming your claim to the land called the Island of Santa Cruz, and that you are required to appear at said court in said city, within ten days after the service hereof, if served on you within the county of Los Angeles, and within twenty days if served on you in the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or that judgment by default will be taken against you, and the prayer of the said petitioner will be granted with costs.

In witness whereof, I have hereunto set my hand and affixed the seal of the said court this 5th day of January, in the year of our Lord one thousand eight hundred and fifty-seven, at Los Angeles aforesaid.

[SEAL] C. SIMS, *Clk.*
p. J. H. COLEMAN, *Dep.*

I served this summons, along with the proper copy of the petition, upon F. Billings, attorney for appellee, by him acknowledging service, at the city of Los Angeles, in the southern district of California, on the 8th day of January, A. D. 1857.

(Signed) EDWARD HUNTER,
U. S. Marshal.
p. M. L. GOODMAN, *Deputy.*

Sworn to and subscribed before me this 8th day of January, 1857.

C. SIMS, *Clk.*
p. J. H. COLEMAN, *D'y.*

Filed in office January 8th, 1857.

C. SIMS, *Clk.*
p. J. H. COLEMAN, *Dep.*

In the United States district court for the southern district of California.

THE UNITED STATES, appellant, vs. ANDRES CASTILLERO, appellee. } Transcript No. 176. Answer of appellee.

Andres Castillero, appellee, appears by his attorneys, and for answer to the petition of the United States filed herein, says:

That his title to the land called "Isla de Santa Cruz," as set forth and described in his petition to the board of commissioners, and in the documentary and other evidence filed in this case, is a good and valid title. The land claimed is situate in the southern district of California.

And he prays this honorable court to affirm the decision of the board of commissioners, and to decree his title to be valid.

HALLECK, PEACHY & BILLINGS,
Att'ys for Appellee.

Filed in office January 8th, 1857.

C. SIMS, *Clk.*
p. J. H. COLEMAN, *D'y.*

Deposition of James Baron Shaw, taken before C. Sims, U. States commissioner for the district of California, at the U. States court-house, in the city of Los Angeles, on Wednesday, the 7th day of January, A. D. 1857, at 2 o'clock p. m., by consent and agreement of the parties to be used as testimony on behalf of the claimant in a certain cause now pending in the United States dist. court for the southern district of California, being case No. 340 on the docket of said court, wherein the United States are appellants, and Andres Castellero is appellee. Present, P. Ord, U. S. dist. att'y, on behalf of the appellants, and F. Billings, Esq., on behalf of appellee.

ANDRES CASTELLERO, appellee, ads. THE UNITED STATES, applt. } No. 340. Island of Santa Cruz.

James B. Shaw, being duly sworn, answers to the following interrogatories, as follows:

Question. What is your name, age, and place of residence?

Answer. My name is James Baron Shaw, am 42 years of age, and reside in the county of Santa Barbara, Cal'a.

Quest. Are you acquainted with the island of Santa Cruz, off Santa Barbara? if so, state how long you have known it, and what connection, if any, you have had with its occupation or possession?

Ans. I am and have been acquainted with it since the beginning of the year 1850. I have been the agent for the claimant, Andres Castellero, in this case for this island since the year 1851, and am still such agent.

Quest. As such agent, state what you have done on said island for its accounts.

Ans. I have paid the taxes on it since 1851, and have placed

cattle, horses, and sheep on it, built houses and made corrals, and cut roads on it.

Quest. Refer more particularly to the years of those improvements and expenditures, and their amount.

Ans. At the commencement of 1853 I began to place the stock on it; since that time I have expended thirty-five thousand dollars, ($35,000.) I have given my personal attention to the island as the local agent both of the original owners and of the commercial agents of the claimants, who are Bolton, Barron & Co., of San Francisco.

Quest. What is the quantity of land in the island?

Ans. It will not average more than seven-and-a-half leagues long, and little more than a league and a quarter (1¼) would be the maximum estimate.

Cross-examination by P. Ord, U. S. dist. att'y.

Quest. Where does Andres Castellero now live?

Ans. In Mexico—the city of Mexico.

Quest. How long has he been living there?

Ans. I do not exactly know, but I think since the year 1849.

Quest. Did you ever see him in California?

Ans. No.

Quest. What was his business in Mexico?

Ans. He was captain of artillery in the Mexican army.

Quest. When you first went on the island in 1853, was it inhabited? and if yea, by whom, and in what manner?

Ans. Yes, by a person named James Box; he was rearing pigs; had a little shanty on the island; he is not on the island now.

Quest. When did he leave the island, and for what reason?

Ans. He left it in 1853, having sold his pigs. I requested him to leave, regarding him as an intruder.

Quest. Do you know how long Box had been living there?

Ans. From December, 1852, to October, 1853.

Quest. Have you ever lived on the island? if yea, how long continuously?

Ans. I have. Since 1853 I have been in the constant habit of going there and remaining several days at a time—making my legal domicil at Santa Barbara; but I had always persons living on the island taking care of the property.

Quest. How have you obtained your information in regard to the extent of the island?

Ans. By sailing around it, and riding over it.

Quest. Have you paid the taxes for the whole or a part of the island since 1851?

Ans. I have paid it for the whole since 1851. In 1851 the taxes amounted to about ($45) forty-five dollars, and since then

the taxes have been gradually increasing, and this year amounted to ($373) three hundred and seventy-three dollars.

Quest. What number of acres was the island assessed at this year?

Ans. It was not assessed by acres. It was assessed at the assessed value of ($10,000) ten thousand dollars, not specifying any amount of land. One year it was assessed by quantity, the amount being six sitios.

(Signed) J. B. SHAW.

Sworn and subscribed before me this 7th day of January, 1857.

C. SIMS, *U. S. Com'r.*

UNITED STATES OF AMERICA,
Southern Dist. of California,
State of California, Los Angeles County.

I, C. Sims, United States commissioner for the dist. of California, hereby certify the foregoing deposition of James Baron Shaw was taken before me on the part of the claimant, in accordance with the agreement and request of the said attorneys, at the United States court-house, in the city of Los Angeles, State of California; that the said James R. Shaw was by me duly sworn according to law as a witness in said cause in the caption deposition mentioned, and after being so sworn, his testimony was by me reduced to writing in his presence and that of the said attorneys, and after having been by me carefully read to him, and by him corrected as he desired, was by him signed in my presence.

In testimony whereof, I have hereunto set my hand and affixed my private seal (there being no official seal) this 7th January, A. D. 1857. [SEAL.]

C. SIMS, *U. S. Com'r.*

Filed in office January 7th, 1857.

C. SIMS, *Clk.*

In the district court of the United States within and for the southern district of California.

Hon. Isaac S. K. Ogier, judge.

December term, 1856.

THE UNITED STATES, appellant,
vs.
ANDRES CASTILLERO, appellee. } No. 340.

Transcript from the board of land commissioners No. 176.

This cause coming on to be heard on appeal from the decision of

the board of land commissioners to settle private land claims in California, upon the transcript of the proceedings and decision of said board, and the documentary and other evidence upon which said decision was founded, and upon other evidence taken and filed in this court, and counsel for the respective parties having been heard—

It is ordered, adjudged, and decreed that the decision of said board of land commissioners confirming unto the above-named appellee, Andres Castillero, the lands set forth and described in his petition to the said board of land commissioners, and in the documentary and other evidence taken in this case, be and the same is hereby affirmed, and that the title of the said Andres Castillero to the said land is a good and valid one.

The land of which confirmation is hereby made is the island known by the name of "Santa Cruz," situated in the county of Santa Barbara, being the same granted to Andres Castillero by Governor Juan B. Alvarado on the 22d day of May, 1839, and is in extent of eleven square leagues, and no more, and has for its boundaries the water's edge. If the quantity of land within said boundaries is less than eleven square leagues, the confirmation hereby made is made to such less quantity; but if the quantity within said boundaries exceeds eleven square leagues, then the confirmation hereby made is made to eleven square leagues, and no more.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the S. Dist. of Cal.

Filed in office January 14th, 1857.

C. SIMS, *Clk.*

On motion of P. Ord, U. S. dist. att'y, it is ordered that an appeal be allowed the United States in the following cases, to wit: No. 11, 14, 42, 50, 55, 63, 68, 69, 77, 81, 88, 90, 93, 98, 99, 100, 117, 120, 126, 127, 133, 136, 141, 144, 148, 154, 155, 156, 158, 159, 170, 181, 182, 183, 185, 186, 190, 194, 203, 205, 208, 210, 214, 216, 217, 219, 220, 224, 235, 237, 243, 245, 246, 247, 250, 251, 257, 258, 261, 262, 265, 273, 276, 280, 290, 294, 297, 302, 305, 312, 316, 320, 329, 332, 335, 337, 340, 341, 349, 354, 355, 357, 360, 361, 362, 365, 372, 376, and 384.

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Columbus Sims, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing fifty-one pages, numbered from one to 51, both inclusive, to contain a full, true, and correct copy of the record of the proceed-

ings and of the decision of said court, and the papers and evidence on which said decision was founded, as the same appear of record in my office, in case No. 340 on the docket of said court, wherein the United States are appellants, and Andres Castillero is appellee, for the tract of land called the "Island of Santa Cruz."

In testimony whereof, I hereto set my hand and affix the seal of said court, at Los Angeles, California, this 20th day of March, A. D. 1858.

[SEAL.]

COLUMBUS SIMS, *Clk.*
Pr. JAMES H. COLEMAN, *Deputy.*